

REMARKS

This Amendment is in response to the Office Action dated July 7, 2005. Because this response is mailed on October 7, 2005, the Amendment is timely filed.

I. Status of the Amendments

Prior to this amendment, claims 41-44, 47-62, 65-78, and 81-94 were pending. By this amendment, claims 41, 59, and 77 have been amended. Consequently, claims 41-44, 47-62, 65-78 and 81-94 are pending, and no fee is due.

II. Response to July 7 Office Action

In the July 7 Office Action, the previously indicated allowability of claims 77-78 and 81-94 was withdrawn. Moreover, claims 41, 42, 44, 47-60, 62, 65-78, and 81-94 were rejected as being allegedly unpatentable under 35 USC § 103(a) over Turner (U.S. Patent No. 4,684,136) in view of Walker et al. (U.S. Patent No. 6,193,306) in further view of Marnell (U.S. Patent No. 5,393,057), and claims 43 and 61 as being allegedly unpatentable under section 103 over Turner in view of Walker et al. further in view of Marnell in yet further view of Seelig (U.S. Publ. No. 2003/0036418).

At the heart of the July 7 Office Action is the newly expressed interpretation of “providing a pass for use in lieu of a selection of one of the plurality of possible answers in exchange for one of an amount of money and a number of game credits.” According to the July 7 Office Action, this limitation allegedly embraces “providing an incorrect response to question wagering event.” July 7 Office Action, at 2. As further elaborated: “the monies lost by a player failing to correctly answer a question are equated to the purchasing of a pass (a right to continue the game) in exchange for the price of a wager (an amount of monies or game credits).”

Applicant disagrees. While limitations may not be imported from the specification into the claims, neither can the statements made by an applicant in the specification regarding the meaning of claim terms be ignored where the statements are clear. In the specification, at

paragraph [0074], passes “permit a player to skip a trivia question while indicating in the space 92 of the matrix 90 in which the trivia question appeared that the player has provided a correct answer thereto or which may provide the player with another trivia question that is randomly selected from a group of trivia questions related to the trivia topic 94.that appears in the selected space 92.” In either event, the effect of the pass is to *avoid* the effect of an incorrect answer when used. If an incorrect answer is provided, as explained in paragraphs [0078] and [0084], the words “Wrong Answer” are displayed in the relevant section of the matrix and no award is provided. As seen from the Figures, this space of the matrix then cannot be used to construct a winning arrangement because an incorrect answer has been provided. Compare, for example, Figs. 14 and 15.

Applicant believes that this meaning is clear from the specification, and therefore disagree with the newly asserted interpretation of this limitation. However, to further clarify the meaning of the claim but without actually altering its meaning, applicant has amended claims 41, 59, and 77 to recite: “the pass not having the effect of an incorrect answer when used.” Applicant submits that the meaning of the claim limitations should now be clear.

Furthermore, under such a claim interpretation, applicant submits that the rejections should be withdrawn. The examiner previously indicated the allowability of the claims prior to the July 7 Office Action. The allowability was withdrawn and the rejections interposed because of the new claim interpretations expressed in the July 7 Office Action. Because the claims cannot be interpreted as explained in the July 7 Office Action, the rejections should be withdrawn.

Application No. 10/028,756
Amendment dated October 7, 2005
Reply to Office Action of July 7, 2005

Docket No.: 29757/AG70

If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below. In any event, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 13-2855, under Order No. 29757/AG70. A duplicate copy of this paper is enclosed.

Dated: October 7, 2005

Respectfully submitted,

By


Jeffrey K. Berger

Registration No.: 51,460

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Agent for Applicant